IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 5412 of 1999

Between:

V.Satyanarayana, S/o. V.Seshaiah,
H.No.22/49/-A-2, Pagidyala road,
Nandikotkur, Kurnool Disrtict.

..... PETITIONER

AND

1 The Regional Transport Officer cum Registering Authority,
O/o. Regional Transport Officer, Kurnool District
2 The Transport Commissioner, State Transport Authority, Government of Andhra Pradesh, Boorgula Ramakrishna Rao Bhavan, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or Writ one preferably in the nature of Writ of Mandamus declaring the action of the first respondent in his proceedings 'X' N.Dis/A3/99 dt.27.2.99 in returning the application made for alteration in the vehicle bearing Reg.No.AP 21 T 4729(Goods carriage) so as to be altered as Auto-Passenger, without considering the application in the light of Section 52 of the M.V.Act, as illegal, arbitrary and falls foul of Sec.52 of the M.V.Act and consequently direct the 1st respondent to permit him to make alteration in the vehicle as three wheeler Auto.

Counsel for the Petitioner: MR.K.MADHAVA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following :

ORDER:

This writ petition is filed seeking a direction, in the nature of writ of Mandamus, to declare the endorsement/proceedings issued by the 1st respondent, returning the application made by the petitioner for alteration of a motor vehicle bearing Reg.No.AP 21 T 4729 (Goods Carriage) so as to be altered as Auto-Passenger.

The petitioner made an application dated 23.2.1999 seeking alteration of the vehicle from Goods Carriage to Auto Trolley. Without conducting any enquiry, the registering authority rejected the said application quoting a circular memo No.4606/B1/96, dated 25.5.1996. It is the case of the petitioner that when an application is made, it is an obligatory that the respondent-authority has to enquire into and consider the same, but the authorities cannot reject the same at the out set, without considering the same and by simply referring the circular instructions. Though the writ petition is of the year 1999, no counter has been filed opposing the relief sought for.

In view of Section 52 of the Motor Vehicles Act, the 1st respondent-authority has to enquire into the application for alteration. It is for the enquiring authority to permit such alteration having regard to the provisions of the Act and the Rules made thereunder. But the application cannot be rejected at the very outset by referring circular instructions. In that view of the matter, the endorsement, dated 27.2.1999 made by the registering authority is quashed and the registering authority is directed to consider the application of the petitioner in accordance with the provisions of the Motor Vehicles Act and the Rules made thereunder.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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30th June, 2005

Nn.

Copy to:

1 The Regional Transport Officer cum Registering Authority,
O/o. Regional Transport Officer, Kurnool District
2 The Transport Commissioner, State Transport Authority, Government of Andhra Pradesh, Boorgula Ramakrishna Rao Bhavan, Hyderabad.

3 . Two C.Cs to the G.P for Transport, High Court Buildings, High Court of A.P., Hyderabad (O.U.T)

4. Two C.D. copies.